

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of the The Union Light, Heat and) Case No. 2004-00014
Power Company's Integrated Resource Plan)

APR 02 2004
PUBLIC SERVICE
COMMISSION

**THE UNION LIGHT, HEAT AND POWER COMPANY'S
2003 INTEGRATED RESOURCE PLAN FILING**

AND

**THE UNION LIGHT, HEAT AND POWER COMPANY'S AND
THE CINCINNATI GAS & ELECTRIC COMPANY'S
JOINT PETITION FOR CONFIDENTIAL TREATMENT**

The Union Light, Heat and Power Company (ULH&P) respectfully files with the Kentucky Public Service Commission (Commission) its 2003 Integrated Resource Plan (IRP) in accordance with 807 KAR 5:058 and the Commission's Order in Case No. 2001-00058.¹ Additionally, ULH&P, along with its parent company, The Cincinnati Gas & Electric Company (CG&E) (collectively, Petitioners) respectfully submit this Petition for Confidential Treatment in accordance with 807 KAR 5:001 Section 7, seeking the confidential treatment of certain information provided in ULH&P's IRP.

Filing of IRP

¹ See *In the Matter of The Application of The Union Light, Heat and Power Company for Certain Findings Under 15 U.S.C. §79Z*, Case No. 2001-00058 (May 11, 2001).

In support of ULH&P's filing of its IRP, ULH&P respectfully states:

1. ULH&P is a Kentucky corporation with its principal office and principal place of business at 107 Brent Spence Square, Covington, Kentucky 41042-0032. Its mailing address is P. O. Box 960, Cincinnati, Ohio 45201.
2. A certified copy of ULH&P's Articles of Incorporation, as amended, is on file with the Commission in Case No. 6566.
3. ULH&P is a utility as defined in KRS 278.010(3)(a) and (b), engaged in providing retail gas and electric services to its customers in Northern Kentucky. ULH&P is thus subject to the jurisdiction of the Public Service Commission.
4. ULH&P has recently been granted a certificate of public convenience and necessity (CPCN) to acquire certain electric generating assets from its parent company, The Cincinnati Gas & Electric Company.²
5. In its Order in Case No. 2001-00058, the Commission required ULH&P to file a stand-alone IRP by June 30, 2004;³ ULH&P hereby files a conforming stand-alone IRP.⁴

² See *In the Matter of the Application of The Union Light, Heat and Power Company for a Certificate of Public Convenience and Necessity to Acquire Certain Generation Resources and Related Property; for Approval of Certain Purchase Power Agreements; for Approval of Certain Accounting Treatment; and for Approval of Deviation from Requirements of KRS 278.2207 and 278.2213(6)*, Case No. 2003-00252 (Interim Order Issued December 5, 2003) (hereinafter Case No. 2003-00252).

³ See *In the Matter of The Application of The Union Light, Heat and Power Company for Certain Findings Under 15 U.S.C. §79Z*, Case No. 2001-00058 (May 11, 2001).

⁴ ULH&P notes that the Commission has waived certain IRP filing requirements, pursuant to 807 KAR 5:058, Section 3. See Order dated February 13, 2004 in this proceeding.

6. ULH&P hereby requests specific language from the Commission to be used to provide notice of this filing pursuant to 807 KAR 5:058, Section 10.

Petition for Confidential Treatment

In support of their Petition for Confidential Treatment, Petitioners respectfully state:

1. ULH&P's IRP contains certain information that Petitioners consider confidential (hereinafter, Confidential Information).
2. The Commission's regulations, in 807 KAR 5:001, provide that any person requesting confidential treatment of any material file a petition setting forth the grounds, pursuant to KRS 61.870 *et seq.*, upon which the Commission should classify that material as confidential.
3. Kentucky Revised Statute § 61.878(1)(c)(1) provides that records confidentially disclosed to an agency or required to be disclosed to the agency be exempt from Kentucky's open records statutes, KRS 61.870 *et seq.* where the records are generally recognized as confidential or proprietary, and which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.
4. ULH&P's affiliate, CG&E, has assisted ULH&P in preparing ULH&P's IRP. Because ULH&P does not presently own generation but anticipates acquiring generation facilities from CG&E, CG&E has assisted ULH&P

in preparing ULH&P's IRP by providing CG&E-related generation information.

5. Petitioners submit that the following Confidential Information, hereinafter "Competitively Sensitive Information," if openly disclosed, would give Petitioners' competitors access to competitively sensitive, confidential information, which in turn could allow the competitors to make offers to sell wholesale power at higher prices than the competitors might offer in the absence of such information. This could cause energy prices to ULH&P's customers to be above competitive rates, and would permit competitors of Petitioners to gain an unfair competitive advantage in the marketplace:

- a. Estimated prices for various electric generating facilities (Pages GA-7-C through GA-41-C of ULH&P's IRP);
- b. Projected SO₂ and NO_x allowance price forecasts (Pages GA-45-C and GA-49-C of ULH&P's IRP);
- c. Projected cost and operating information for East Bend Generating Station, Miami Fort Unit 6, Woodsdale Generating Station, and additional studied generating alternatives (Pages SA-42-C through SA-54-C of ULH&P's IRP);
- d. Capital costs and estimation factors for new units (Figure SA-57-C of ULH&P's IRP); and
- e. ULH&P's annual revenue requirement – real and nominal (Figure SA-60-C).

6. Petitioners submit that the following Confidential Information, if openly disclosed, could present security issues, hereinafter “Critical Energy Infrastructure Information” or “CEII”, and could be used by terrorist organizations or others to disrupt ULH&P’s and CG&E’s ability to provide reliable electric service:
 - a. Maps of CG&E’s and ULH&P’s electrical system and substations, 69 kV and above (Section 8. (3) (a) of ULH&P’s IRP); and
 - b. Thermal capacities of transmission circuits (Section 8. (3) (a) of ULH&P’s IRP).
7. CG&E vigorously strives to maintain the confidentiality of all of the Confidential Information. Further, this information is held to be confidential and proprietary throughout the electric industry for the reasons discussed herein.
8. The Confidential Information delineated in Paragraph 5, items (a), (b), and (d) above, if openly disclosed, would enable competitors in the wholesale power market to ascertain Petitioners’ view of the competitive wholesale electric marketplace and the prices to be commanded for various types of generating facilities. Additionally, this information would enable competitors to ascertain Petitioner’s projection of energy prices in the wholesale marketplace.
9. The Confidential Information delineated in Paragraph 5, items (c) and (e), above, if openly disclosed, would enable competitors in the wholesale power market to ascertain the manner in which Petitioners plan, manage

and operate their generating facilities the cost associated therewith, and would enable competitors to ascertain Petitioners' positions (long or short) with respect to electric generation capabilities.

10. The Competitively Sensitive Information will provide power marketing competitors with knowledge that will allow them to potentially manipulate the marketplace so as to unnecessarily cause consumers to pay more for electricity than they otherwise would. For example, the projected costs and operating information for Petitioners' plants would grant competitors a distinct advantage in that they would be able to anticipate when Petitioners' plants would be down or otherwise constrained and where Petitioners may be long or short. With this information, a competitor could take actions that in the absence of this information it would not take. Such actions might include adjusting its prices, either to win contracts on which CG&E may also be bidding — business the competitors otherwise would not be in a position to win, or to set its prices artificially high to take advantage of an overall short market, the latter action obviously forcing consumers to pay higher prices for power.
11. The Critical Energy Infrastructure Information could, if made public, be used by terrorist organizations or others to disrupt Petitioners' ability to provide electric service to the customers of their service territories. Those wishing to so disrupt the delivery of electricity could use CEII to determine the manner in which to most effectively and most permanently disable Petitioners' transmission facilities, thus rendering large parts of

Petitioners' service territory without electric service. FERC has similarly expressed concern over the release of CEII.⁵

12. Pursuant to 807 KAR 5:001 Section 7, Petitioners have attached to this Petition, under seal, one complete copy of the Confidential Information described herein, and ten copies of ULH&P's IRP with the confidential material omitted or otherwise redacted.

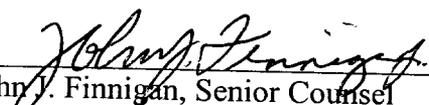
⁵ See *Critical Energy Infrastructure Information*, 102 FERC ¶ 61,190 (February 21, 2003)

WHEREFORE, for the reasons stated herein, ULH&P requests that the Commission:

1. Accept ULH&P's IRP for filing;
2. Within 10 days of this filing, provide ULH&P the specific language to be used to provide notice of this filing pursuant to 807 KAR 5:058, Section 10; and
3. Grant confidential treatment to the Confidential Information described herein and submitted herewith.

Dated at Cincinnati, Ohio, this 31st day of March, 2004.

THE UNION LIGHT, HEAT AND
POWER COMPANY



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CERTIFICATE OF SERVICE

I hereby give notice that on this 1st day of April, 2004, I have filed an original and 10 true copies, redacted, of ULH&P's IRP and the foregoing Joint Petition for Confidential Treatment with the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601, and have served a copy of the foregoing Joint Petition for Confidential Treatment on the parties to ULH&P's last IRP proceeding, appearing below.


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